



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - DENIAL **Request for Variance** **Leon Haydon /Map 252, Lot 23**

May 5, 2016

Applicant: Leon Haydon
201 Westledge Road
West Simsbury, CT 06092

Location: Winauke Road, Moultonborough, NH (Tax Map 252, Lot 23)

On April 20, 2016, the Moultonborough Zoning Board of Adjustment opened a public hearing on the application of Leon Haydon (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III, Section B (1) & (3) to allow for the construction of a 24 ft. x 24 ft. garage to be located three (3) feet from the side setback and one (1) foot from the rear setback where 20 ft. is required, and six (6) inches from the edge of the right-of-way where 25 ft. is required on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at Winauke Road (Tax Map 252, Lot 23).
- 2) Leon & Cheryl Haydon are the owners of record for the lot.
- 3) Leon Haydon presented the application for the variance.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The setbacks affected are the twenty foot (20') side line setback and the twenty-five foot (25') edge of the right-of-way setback.
- 6) The applicant is proposing the construction of a 24 ft. x 24 ft. garage to be located three (3) feet from the side setback and one (1) foot from the rear setback where 20 ft. and six (6) inches from the edge of the right-of-way where 25 ft. is required.

- 7) One abutter submitted an email to the applicant stating that he had no problem with the proposed garage project.
- 8) No members of the public wished to speak during the public hearing.
- 9) The ZBA had questions at the April 20, 2016 meeting relating to safety regarding the access to the proposed garage.
- 10) The ZBA had concerns at the April 20, 2016 meeting with the "estimated" setbacks provided with the application, noting they would like accurate figures.
- 11) The Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Bickford, St. Peter, Jenny), and none (0) opposed to continue the Public Hearing to May 4, 2016, allowing the Board the opportunity to seek an opinion from both the Chief of Police and a representative of the Highway Department regarding safety, and to allow the applicant time to provide the Board with accurate figures for requested setbacks.
- 12) The ZBA re-opened the continued Public Hearing at the May 4th meeting and received input from Vice Chairman Bickford regarding his meeting on site with Chief Wetherbee and Highway Forman Wakefield.
- 13) Input from both Chief Wetherbee and Highway Forman Wakefield were provided via email, with each noting in their opinion there was adequate sight distance and the proposed addition would not pose a safety hazard.
- 14) The applicant provided the Board with a revised sketch, in which he indicated he was able to locate two of the four corner pins, which he then calculated the setback measurements provided in his testimony.
- 15) Granting the Variance would not be contrary to the public interest as the Board felt that the encroachment into the setbacks did not alter the character of the neighborhood nor threaten the welfare, safety or health of the public based on input received from the Chief of Police and the Highway Forman.
- 16) Granting the Variance would be consistent with the spirit of the Ordinance as the Board felt that the encroachment into the setbacks did not alter the character of the neighborhood nor threaten the welfare, safety or health of the public based on input received from the Chief of Police and the Highway Forman.
- 17) By granting the Variance, substantial justice would be done as there is an existing barn located within the right-of-way and there is not gain to the general public by denying the proposed garage as requested.

- 18) Granting the Variance would not diminish the value of surrounding properties as other neighborhood properties as the garage fits the neighborhood and is new construction.
- 19) No Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the need for such an accessory structure was not demonstrated by the applicant as there is already a reasonable use of the property.
- 20) On May 4, 2016, the Zoning Board of Adjustment voted by a vote of four (4) in favor (Bickford, Nolin, DeMeo, Jenny) and one (1) opposed (Stephens) to deny the request for a variance, ...and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on May 18, 2016, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of three (3) in favor (Stephens, Bickford, Jenny), two (2) abstentions (Zewski, St. Peter) and none (0) opposed.

The decision made to deny the variance on May 4, 2016 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 5/20/16